Supreme Court, U.S.
FILED
DEC 4 1987
JOSEPH F. SPANIOL, JR.
CLERK

No. 87-919

In the Supreme Court
OF THE
United States

OCTOBER TERM, 1987

THE TIMES MIRROR COMPANY,
TRIBUNE NEWSPAPERS WEST, INC.,
LOZANO ENTERPRISES,
Appellants,

VS.

THE CITY OF LOS ANGELES,
Appellee.

On Appeal from the California Court of Appeal, Second Appellate District, Division Two

LOS ANGELES HERALD EXAMINER DIVISION, THE HEARST CORPORATION, BRIEF AMICI CURIAE IN SUPPORT OF APPELLANTS' JURISDICTIONAL STATEMENT

STEPHEN G. CONTOPULOS
Counsel of Record
GLEN A. SMITH
DONOVAN LEISURE NEWTON & IRVINE
333 South Grand Avenue
Suite 4100
Los Angeles, California 90071
(213) 253-4000
Attorneys for Amici Curiae

Bowne of Los Angeles, Inc., Law Printers. (213) 742-6600

5 pp

No. 87-919

In the Supreme Court

OF THE

United States

OCTOBER TERM, 1987

THE TIMES MIRROR COMPANY,
TRIBUNE NEWSPAPERS WEST, INC.,
LOZANO ENTERPRISES,
Appellants,

VS.

THE CITY OF LOS ANGELES,
Appellee.

On Appeal from the California Court of Appeal, Second Appellate District, Division Two

LOS ANGELES HERALD EXAMINER DIVISION, THE HEARST CORPORATION, BRIEF AMICI CURIAE IN SUPPORT OF APPELLANTS' JURISDICTIONAL STATEMENT

1. Interest of Amici Curiae

The Los Angeles Herald Examiner is a general circulation newspaper that is published in Los Angeles and distributed throughout the Southern California region. It is a division of The Hearst Corporation, an organization which publishes newspapers and magazines throughout the United States.

The Los Angeles Herald Examiner is a plaintiff in a case pending in the Los Angeles Superior Court (The

Hearst Corporation v. City of Los Angeles, Case No. C 539 509) which challenges the constitutionality of the same Los Angeles Municipal Court ordinances that are the subject of the appeal being prosecuted by The Times Mirror Company and which raises issues identical to those addressed in The Times Mirror Company's jurisdictional statement. The proceedings in that action have been stayed pending the outcome of this appeal.

As a newspaper that is subject to the disputed municipal business tax, and as a division of a corporation that engages in media activity throughout the United States, the Los Angeles Herald Examiner has a vital interest in the outcome of this appeal.

Appellants and Appellee have consented to the filing of this brief. See letters attached as Exhibits A and B.

2. The Important Issues Raised by Appellants' Jurisdictional Statement Require Adjudication By This Court

This Court recognized long ago that the power to tax is the power to destroy. Appellants and Amicus Curiae are confronted with a tax imposed by the City of Los Angeles that blatantly discriminates without justification among activities protected by the First Amendment.

The Herald Examiner is distributed in an area that includes a patchwork of governmental entities in the Southern California region, including the Counties of Ventura, Los Angeles, and Orange, and dozens of cities including Los Angeles, Santa Monica, Long Beach, Beverly Hills, Anaheim and Santa Ana. The precedent established by the Los Angeles tax, if allowed to continue, presents the frightening prospect of some or all of these governmental units deciding to protect or engender some First Amendment activities while punishing others

through discriminatory tax codes. The scope of this problem is highlighted by the national interests that modern media companies have, as demonstrated by the various newspapers and magazines published by The Hearst Corporation. Absent firm direction from this Court, such media interests will be subject to a crazy quilt system of local taxation that will chill and threaten important First Amendment activities.

DATED: December 29, 1987

Respectfully submitted,

By: STEPHEN G. CONTOPULOS
Counsel of Record

Attorneys for Amici Curiae

PROOF OF SERVICE BY MAIL

I am a citizen of the United States and a resident of the City and County of Los Angeles; I am over the age of eighteen years and not a party to the within action; my business address is: 1706 Maple Avenue, Los Angeles, California.

On December 29, 1987, I served the within Brief of Amici Curiae in support of Appellants' Jurisdictional Statement in re: "The Times Mirror Company v. The City of Los Angeles" in the United States Supreme Court, October Term 1987, No. 87-919.

On the Parties in said action, by placing Three copies thereof enclosed in a sealed envelope with postage fully prepaid, in the United States post office mail box at Los Angeles, California, addressed as follows:

Rex S. Heinke, Esq.
Gibson, Dunn & Crutcher
333 South Grand Avenue
43rd Floor
Los Angeles, CA 90071

William A. Niese, Esq.
Jeffrey S. Klein, Esq.
The Times Mirror Company
220 West First Street
Los Angeles, CA 90053

Fred L. Leydorf, Esq.
Hufstedler, Miller, Carlson
& Beardsley
700 South Flower Street
Los Angeles, CA 90017

Frank Simpson, III
Kathyleen A. O'Brien
Sheppard, Mullin, Richter
& Hampton
333 South Hope Street
Los Angeles, CA 90071

City of Los Angeles
Michael L. Klekner
Deputy City Attorney
1800 City Hall East
200 North Main Street
Los Angeles, CA 90012

Clerk, U.S. Supreme Court
#1 First Street N.E.
Washington, D.C. 20543
(orig. plus 40)

All parties required to be served have been served.

I certify (or declare), under penalty of perjury, that the foregoing is true and correct.

Executed on December 29, 1987, at Los Angeles, California.

Ce Ce Medina

CE CE MEDINA